

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**MICHAEL BIES**

*Petitioner,*

vs.

**MARGARET BAGLEY, Warden,**

*Respondent*

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Case Number: 1:00-cv-00682

District Judge Susan J. Dlott

Chief Magistrate Judge Michael Merz

***Death Penalty Case***

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**THE PARTIES' AGREED STATUS REPORT AND PROPOSED SCHEDULE PER THE  
COURT'S ORDER OF AUGUST 25, 2008**

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Pursuant to the Court's order of August 25, 2005, with the authorization of counsel for Petitioner Michael Bies, counsel for Respondent submits the following agreed status report and proposed schedule

Respectfully submitted,

**NANCY H. ROGERS**

Attorney General

s/

*Charles L. Wille*

**Charles L. Wille (0056444)**

**Principal Assistant Attorney General**

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**COUNSEL FOR RESPONDENT**

## **AGREED STATUS REPORT AND PROPOSED SCHEDULE**

On March 1, 2006, the Court issued a writ of habeas corpus on Bies' claim that the Double Jeopardy Clause precludes the state from re-litigating a prior determination that Bies is mentally retarded. The writ directed the State of Ohio to vacate the sentence of death and to re-sentence Bies to a lesser punishment authorized by law. The Warden appealed the Court's decision to the United States Court of Appeals for the Sixth Circuit. The Sixth Circuit denied the Warden's appeal and on August 5, 2008, the Sixth Circuit denied the Warden's petition for rehearing *en banc*. On August 25, 2008, the Court granted the Warden's motion to stay issuance of the writ pending the Warden's filing of a petition for a writ of certiorari and the disposition of such petition. The Court further ordered that the parties file with the Court not later than September 15, 2008 a report similar to the report required under Fed. R. Civ. P. 26(f) setting forth the agreed or respective positions regarding steps needed to bring the case to completion.

The parties have consulted and have agreed that the status of the case is as follows. Prior to the Court's bifurcation of the Double Jeopardy Claim, Bies filed a Third Amended Petition for Writ of Habeas Corpus. No Return of Writ (Answer) to the Third Amended Petition was filed by the Warden with respect to claims other than the Double Jeopardy Claim. Therefore, a Return of Writ (Answer) addressing such claims is necessary. The parties further agree to the following proposed schedule. The Warden shall file a Return of Writ (Answer) to the Third Amended Petition for Writ of Habeas Corpus not later than forty-five (45) days after the issuance of the proposed scheduling order. A status conference will then be convened to discuss what further actions need to be undertaken by the parties.

Respectfully submitted,

**NANCY H. ROGERS**

Attorney General

s/ Charles L. Wille

**Charles L. Wille (0056444)**

**Principal Assistant Attorney General**

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**COUNSEL FOR RESPONDENT**

**CERTIFICATE OF SERVICE**

I hereby certify that on September 15, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel for Petitioner:

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s/ Charles L. Wille

**Charles L. Wille (0056444)**

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